

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DAVID LENIHAN and JAN LENIHAN,
Plaintiffs,

v.

COMPUTER ASSOCIATES
INTERNATIONAL, INC.,
Defendant.

C.A. No. 04-11701-DPW

DEFENDANT'S LOCAL RULE 16.1(D) STATEMENT

Counsel for Defendant Computer Associates International, Inc. ("Computer Associates") did not receive a proposed Local Rule 16 Statement from Plaintiffs' counsel, despite a conference call on September 1, 2004. Accordingly, Computer Associates now submits its own statement in accordance with Local Rule 16.1(D).

I. Discovery Plan.

Computer Associates has filed a motion to transfer this action to the United States District Court for the Eastern District of New York. If the motion is granted, a discovery plan will be filed with the New York Court. In the event that this action is not transferred, Computer Associates shall answer or otherwise respond to the complaint within 10 days after the Court's order.

Each party will make its initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) by September 23, 2004.

All fact discovery, including depositions, interrogatories, document requests and requests for admissions will be served so that responses will be due by March 2, 2006.

The parties do not anticipate that expert discovery will be necessary in this action. To the extent that expert discovery becomes necessary, the parties will serve expert disclosures required

by Fed. R. Civ. P. 26(a)(2) for any experts they intend to offer for their case-in-chief by September 4, 2006, and in any event no later than 30 days prior to the final pretrial conference.

The parties do not believe that phased discovery is appropriate in this action.

II. Proposed Schedule for Filing of Motions.

All motions under Fed. R. Civ. P. 56 shall be filed by May 2, 2006. Oppositions to any motions for summary judgment shall be filed within twenty-one (21) days thereafter.

III. Certifications Signed By Counsel and Authorized Party Representatives.

The Local Rule 16.1(D)(3) certification of Computers Associates is filed herewith.

Respectfully submitted,
COMPUTER ASSOCIATES
INTERNATIONAL, INC.

By its attorneys,

HOLLAND & KNIGHT LLP



Paul G. Lannon, Jr. (BBO # 563404)
David J. Santeusano (BBO # 641270)
10 St. James Avenue
Boston, MA 02116
(617) 523-2700

Dated: September 2, 2004

2213601_v1

*I hereby certify under the pains and penalties
of perjury that this document was served upon
counsel for all parties in this case on*

9/2/04 *by hand/by mail.*

